

U.S. Department of Labor

Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, Virginia 22209-3939



NOV 26 2008

MEMORANDUM FOR FELIX A. QUINTANA

Administrator for Metal and
Nonmetal Mine Safety and Health

FROM:

GEORGE M. FESAK *George M. Fesak*
Director, Program Evaluation and Information Resources

EDWARD P. CLAIR *Edward P. Clair*
Associate Solicitor for Mine Safety and Health

JEFFREY A. DUNCAN *Jeffrey A. Duncan*
Director for Educational Policy and Development

MARK E. SKILES *Mark E. Skiles*
Director of Technical Support

NANCY M. SAHAKIAN, MD *Nancy Sahakian*
Senior Program Management Consultant, Clinical Operations,
Federal Occupational Health Service, United States Public
Health Service

SUBJECT:

Fatality Review Committee Decision on Chargeability

Case No.: M-2008-07 [REDACTED]
M-2008-08 [REDACTED]

Deceased: [REDACTED]

Date of Incident: March 3, 2008

Date of Death: March 3, 2008

Operator: Broad River Quarries, L.L.C.

Mine: Broad River Quarries, L.L.C.

Decision: Not Chargeable

In a unanimous decision, the Fatality Review Committee has determined that the deaths of [REDACTED] should not be charged to the mining industry. MSHA's investigation revealed that [REDACTED] were fatally injured at the Broad River Quarries mine when they were run over by the left rear wheel of a retired loader they were attempting to start. Although they were not mine employees they were authorized to be on mine property. [REDACTED] was the previous owner of the mine and sold the mine to Broad River Quarries in July 2003. Under the terms of the sale, [REDACTED] was entitled to remove equipment he owned from mine property.

Based on a legal review conducted by the Associate Solicitor for Mine Safety and Health, the committee concluded that [REDACTED] were not performing mining related work. The salvage activities of the Vaughns were more directly related to their salvage business than to mining. Their salvage activities were intermittent and had been going on over a period of 5 years at no set schedule related in any way to extraction at the mine. Similarly, the loader involved in the accident had not been used for mining purposes for nearly 5 years. Accordingly, the review committee concluded that the deaths of [REDACTED] should not be charged to the mining industry because they were not performing mining related work activities and their deaths were not caused by mining activities or equipment.

cc: Richard E. Stickler
John Pallasch
Robert M. Friend